

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DAINON L. JONES,)	CASE NO. 4:22-cv-764
)	
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	MEMORANDUM OPINION
)	AND ORDER
WARDEN F. GARZA,)	
)	
)	
RESPONDENT.)	

Before the Court is the Report and Recommendation (“R&R”) of a magistrate judge with respect to the above-entitled petition for writ of habeas corpus under 28 U.S.C. § 2241. (Doc. No. 19.) The R&R recommends granting the petition and remanding for a new determination of Dainon L. Jones’ eligibility for time credits under the First Step Act of 2018. *See* Pub. L. 115-391, § 101(a), 132 Stat. 5194 (codified at 18 U.S.C. § 3632(d)(4)).

Under 28 U.S.C. § 636(b)(1)(C):

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. [. . .]

The R&R was filed on April 18, 2023. Not surprisingly, Jones has filed no objections. Further, as of the date of this order, the respondent has neither objected nor sought an extension to do so. The failure to file written objections to a magistrate judge’s report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the

report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the magistrate judge's R&R and accepts its recommendation with respect to the petition.

The R&R also recommends denying as moot Jones' motion to take discovery and for an evidentiary hearing (Doc. No. 18). (Doc. No. 19, at 14 n.7.) Since the magistrate judge has the authority to resolve that non-dispositive matter, 28 U.S.C. § 636(b)(1)(A), the Court construes the recommendation as an outright denial of the request for discovery and/or hearing and, to the extent it may be necessary, the Court adopts that order.

Finally, the R&R recommends denying as moot Jones' motion for summary judgment (Doc. No. 10). (Doc. No. 19, at 14 n.7.) The Court accepts that recommendation and denies Doc. No. 10.

Accordingly, for the reasons set forth in the R&R, the Court denies as moot Doc. Nos. 10 and 18. Further the Court grants Jones' petition and remands this matter for a new determination of Jones' eligibility for time credits. Finally, although likely unnecessary, the Court certifies that an appeal from this decision could not be taken in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: May 10, 2023



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE